



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 25 2001

OFFICE OF  
CIVIL RIGHTS

**CERTIFIED MAIL #7000 1670 0006 0859 2326**  
**RETURN RECEIPT REQUESTED**

**In Reply Refer to:**  
EPA File No: 16R-00-R4

Ms. Nicole Gooding-Ray  
Environmental Poverty Law Program  
North State Legal Services  
114 West Corbin Street  
Hillsborough, North Carolina, 27278

Mr. John Runkle, Esq.  
Anson County Citizens Against Chemical  
Toxins in Underground Storage  
P.O. Box 3793  
Chapel Hill, North Carolina 27515

**Re: Rejection of Administrative Complaint**

Dear Ms. Gooding-Ray and Mr. Runkle:

On December 1, 2000, you filed a complaint with the U.S. Environmental Protection Agency's Office of Civil Rights. The complaint alleges violations of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*, and EPA's regulations implementing Title VI found at 40 C.F.R. Part 7 by the North Carolina Department of the Environment and Natural Resources. More specifically, in the complaint you allege that the NCDENR discriminated against African-American residents of Polkton, North Carolina by issuing a construction permit to Chambers Development of North Carolina, Inc., for the construction of a Municipal Solid Waste Landfill Facility. The purpose of this letter is to inform you that your complaint has been rejected for investigation by OCR.

Under Title VI, a recipient of federal financial assistance may not discriminate on the basis of race, color, or national origin. Pursuant to EPA's Title VI implementing regulations, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). A complaint must meet the jurisdictional requirements described in EPA's Title VI regulations for investigation. First, it must be in writing. Second, it must describe an alleged discriminatory act that violates EPA's Title VI regulations (*i.e.*, an alleged discriminatory act based on race, color, or national origin). Third, it must be filed within 180 days of the alleged

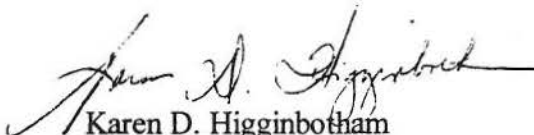
discriminatory act. 40 C.F.R. § 7.120. Fourth, because EPA's Title VI regulations only apply to applicants and recipients of EPA assistance, the complaint must identify an applicant or recipient of EPA assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

Your complaint meets only three of the four jurisdictional requirements in 40 C.F.R. Part 7. First, your complaint is in writing. Second, you allege that the issuance of the construction permit to Chambers Development of North Carolina, Inc., by NCDENR has a discriminatory effect against African American residents of Polkton, North Carolina in violation of Part 7. Third, NCDENR was a recipient of EPA financial assistance at the time of the alleged discriminatory act. The element missing from your complaint is the timeliness requirement.

OCR considers the date of filing to be the date on which EPA, or another Agency, receives a complaint. Your complaint is not timely because it was received on December 1, 2000, 183 days from June 1, 2000, the date on which the construction permit was issued to Chambers Development of North Carolina, Inc. OCR has no recourse but to consider your complaint untimely. Therefore, your complaint is rejected for investigation.

If you have any questions, please contact Eva Hahn phone at (202) 564-8186, by e-mail at [hahn.eva@epa.gov](mailto:hahn.eva@epa.gov), or by mail to the U.S. EPA (Mail Code 2201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,



Karen D. Higginbotham  
Acting Director

cc: Mr. Wayne McDevitt, Secretary  
North Carolina Department of the Environment and Natural Resources  
P.O. Box 3793  
Chapel Hill, NC 27515

Robert E. Fabricant, General Counsel  
Office of General Counsel (MC 2310A)

Rafael DeLeon, Associate General Counsel  
Civil Rights Law Office  
Office of General Counsel (MC 2399A)

Sylvia Lowrance, Acting Assistant Administrator  
Office of Enforcement and Compliance Assurance (MC 2201A)

Barry Hill, Director  
Office of Environmental Justice (MC 2201A)  
Office of Enforcement and Compliance Assurance

Marsha Minter, Special Assistant  
Office of the Administrator (MC 1103A)

A. Stanley Meiberg, PhD  
Acting Regional Administrator  
EPA Region 4

Nancy Tommelleo  
Title VI Coordinator  
EPA Region 4

Gail Ginsberg, Chair  
Title VI Task Force (MC 2201A)